



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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June 2, 2023

Via ECF

Honorable Loretta A. Preska
United States District Court Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Rm 1320
New York, NY 10007-1312

**Re: SEC v. Stewart, et al., 1:98-cv-02636-LAP
Reply to Phyllis Gottlieb's Application to Dismiss Based Upon Rule 3.
01 (ECF No. 456)**

Dear Judge Preska:

The U.S. Securities and Exchange Commission (“Commission” or “SEC”) respectfully submits this reply to Phyllis Gottlieb’s Application to Dismiss Based upon Federal Rule of Civil Procedure (“Federal Rule”) 3.01 (“Application”).¹ (ECF No. 456). In it, she alleges that the Commission failed to respond to her motion to dismiss filed on July 12, 2021.

The docket in this case, however, reflects that Mrs. Gottlieb, through counsel or otherwise, did not file a motion to dismiss on or around July 12, 2021. Instead, the docket shows the following filings were made on July 12, 2021:

1. An Emergency Motion - Response to Order to Show Cause filed by Allen Gottlieb (and that includes Mrs. Gottlieb’s signature) (ECF No. 352);
2. A Notice of Motion – Emergency Motion – Response to Order to Show Cause-Dismiss/Reject TRO filed by Allen Gottlieb (ECF No. 353);

¹ Federal Rule 3.01 does not exist. Federal Rule 3 does exist; however, it relates to the commencement of a civil action.

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3. A Letter from Allen Gottlieb regarding his “recent complaint” dated July 3, 2021 (ECF No. 354); and
4. An Expanded Response to Order to Show Cause filed by Allen Gottlieb (ECF No. 355).

None of the Gottliebs’ various July 12 filings included a motion to dismiss. Consequently, the Court should deny Mrs. Gottlieb’s erroneous Application.

Respectfully submitted,

/s/ Christy J. White
Christy J. White
Assistant Chief Litigation Counsel

Cc: Alex Eisemann via ECF
Allen and Phyllis Gottlieb via lawconsultancy@aol.com